

**MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF BELARUS**

**Department of Internal Affairs  
of the Minsk Regional Executive Committee**

29, Kalvariyskaya Street, 220079 Minsk

“ ” 2004, No. \_\_\_\_\_

To: **COMPETENT INSTITUTION OF JUSTICE  
OF THE UNITED STATES OF AMERICA**

**INTERNATIONAL ROGATORY LETTER  
Republic of Belarus**

City of Minsk, Republic of Belarus

July 5, 2004

The Organized Crime and Corruption Investigation Office of the Preliminary Investigation Department under the Department of Internal Affairs of the Minsk Regional Executive Committee expresses its profound respect for the law enforcement bodies of the United States of America, and submits this petition for rendering legal assistance within the criminal case No. 04016000162 (please henceforth refer to this number) subject to mutuality and as a matter of international courtesy.

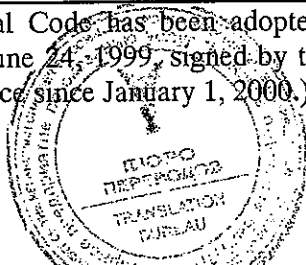
The Organized Crime and Corruption Investigation Office of the Preliminary Investigation Department under the Department of Internal Affairs of the Minsk Regional Executive Committee assures the competent authorities of the United States of America of the fact that this petition for rendering legal assistance within the criminal case being investigated has been drawn up by the authorized body within its terms of reference and in conformity with the legislation of the Republic of Belarus.

Carrying out investigative actions in the territory of the United States of America is needed for completeness, comprehensive and impartial character of the preliminary investigation, as well as for subsequent examination of this case in the court.

The Organized Crime and Corruption Investigation Office of the Preliminary Investigation Department under the Department of Internal Affairs of the Minsk Regional Executive Committee guarantees that any information or documents received as a result of fulfillment of this rogatory letter will be used only for the purpose of investigation of this criminal case or as evidences for examination of this criminal case in the court. They will not be used for political and other purposes or against the citizens of your country.

**Extract from the Criminal Code of the Republic of Belarus:**

(The Criminal Code has been adopted by the House of Representatives of the Republic of Belarus on June 24, 1999, signed by the President of the Republic of Belarus on July 9, 1999, come into force since January 1, 2000.)



**Article 209 Fraud**

1. Capture of the property or acquisition of the title for the property by deception or abuse somebody's confidence (fraud)  
shall be punished by a fine or corrective labour for a period of up to two years, or arrest for a period of up to six months, or restriction of freedom for a period of up to three years, or imprisonment for the same period.
2. Repeated fraud or fraud perpetrated by a group of persons  
shall be punished by corrective labour for a period of up to two years, or restriction of freedom for a period of up to four years, or imprisonment for the same period.
3. Large-scale fraud  
shall be punished by imprisonment for a period from two to seven years with or without forfeiture of property.
4. Fraud perpetrated by a n organized group of persons or specially large-scale fraud  
shall be punished by imprisonment for a period from three to ten years with forfeiture of property.

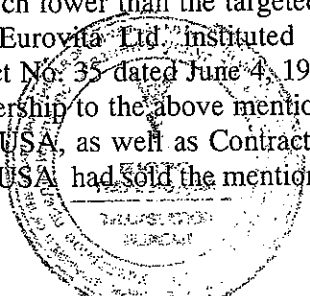
**FACTS OF THE CASE:**

On March 19, 1997 Belarusian – Polish joint venture "Eurovita" (hereinafter JV Eurovita Ltd) was established based on ownership in common. Eurovita Ltd. located in the city of Poznan, Republic of Poland, and VitaPlus Ltd., located in the city of Minsk, Republic of Belarus were the founders of this enterprise. According to JV Eurovita Ltd.'s Bylaws, the Meeting of the Members is the higher management body of the enterprise; the President is an executive body. Mr. Andjey Tsekhovsky (who at the same time was a Chairman of the Board of Eurovita Ltd. and Terravita Ltd.) was elected the President of JV Eurovita Ltd. At the Meeting of the Members of JV Eurovita Ltd. held on May 26, 1997, a corporate executive body – the Directorate of JV Eurovita Ltd. – was formed which included the President in the person of Mr. Andjey Tsekhovsky, and two Vice Presidents in the persons of I.E. Ryzhkovsky and K.V. Kolos. K.V. Kolos was granted the power of attorney authorizing him to represent the powers of the President of JV Eurovita Ltd. in the territory of the Republic of Belarus.

On August 8, 1997 the Polish company Greenvita (whose assignee at the present time is the Polish company Eurovita Ltd.) and JV Eurovita Ltd. signed Lease Contract No.PL 630013822\97-01 for delivery to the address of JV Eurovita Ltd of the manufacturing equipment for production of chocolate, to the amount of USD 995000.

In 1997 the mentioned equipment, being registered at the custom-house on terms of temporary importation, arrived at the address of JV Eurovita Ltd. However, K.V. Kolas, the vice president of JV Eurovita Ltd., submitted to the customs supervision bodies of the Republic of Belarus the shipping documentation according to which JV Eurovita Ltd. leased the mentioned equipment from the American company Datacom L.L.C. USA under Contract No.001 dated August 4, 1997. The text of this Contract was similar to that of Contract No.PL 630013822\97-01.

After installation and start-up of such purchased equipment profit received by JV Eurovita Ltd. was much lower than the targeted one, in which connection Mr. Andjey Tsekhovsky, President of JV Eurovita Ltd. instituted the check-up. During such check-up K.V. Kolos submitted Contract No. 35 dated June 4, 1998, under which Datacom L.L.C., USA had conceded the right of ownership to the above mentioned equipment to the American company Elsmund Investment L.L.C. USA, as well as Contract No. 43 dated July 1, 1998, under which Elsmund Investment L.L.C. USA had sold the mentioned equipment to JV Eurovita Ltd.



JV Eurovita Ltd. transferred for the purchased equipment to the account of Elsmond Investment L.L.C. USA in SAULES BANKA, RIGA, Latvia:

USD 15380 on the basis of the application for transfer No. 1 dated August 10, 1999;  
USD 40000 on the basis of the application for transfer No. 2 dated September 7, 1999;  
USD 50000 on the basis of the application for transfer No. 3 dated September 17, 1999;  
USD 50000 on the basis of the application for transfer No. 4 dated October 1, 1999;  
USD 50000 on the basis of the application for transfer No. 5 dated October 8, 1999;  
USD 50000 on the basis of the application for transfer No. 6 dated October 15, 1999;  
USD 50000 on the basis of the application for transfer No. 7 dated October 25, 1999;  
USD 48440 on the basis of the application for transfer No. 8 dated November 1, 1999;  
USD 1560 on the basis of the application for transfer No. 8 dated November 1, 1999;  
USD 28440 on the basis of the application for transfer dated November 5, 1999; -  
total to the amount of USD 383820.

Subsequently K.V. Kolas, the vice president of JV Eurovita Ltd., sold this equipment owned by JV Eurovita Ltd. to "Sladushka" Belarusian Foreign Enterprise (which founder he himself was) and declared JV Eurovita Ltd. bankrupt.

At the same time, according to the constituent documents of JV Eurovita Ltd., a vice president of the company (here – K.V. Kolas) was not authorized to dispose of immovable property of the enterprise, manufacturing equipment for chocolate production, in particular. And according to the information submitted by the National Central INTERPOL Office of the Republic of Belarus Datacom L.L.C. USA and Elsmond Investment L.L.C. USA have not been registered in the USA as on the time of inspection (year 2001).

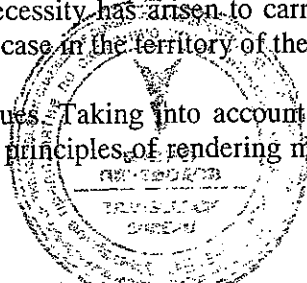
Thus, the investigators reasonably believe that K.V. Kolos, who had no authorities to dispose of immovable property of JV Eurovita Ltd., through submission of forged contracts concluded with the American companies Datacom L.L.C. USA and Elsmond L.L.C. USA at first registered the chocolate production line (leased by JV Eurovita Ltd.) as the property of this company, and then sold it to "Sladushka" Belarusian Foreign Enterprise (which owner he himself was). In that way he misappropriated the equipment, and then declared JV Eurovita Ltd. a bankrupt.

Taking into account the above stated circumstances, we have sufficient grounds to believe that K.V. Kolos perpetrated the fraud in agreement with the managers of the named American companies, which was additionally proven by the fact that funds had been transferred to the settlement account of one of such companies.

According to the data available under this case as on June 1998, Datacom L.L.C. USA was located at the address: 9013 N. Market St. Wilmington Delaware 19801, USA, and was managed by Martin A. Lukas. Elsmond Investment L.L.C. was located at the address: 12260, Willow Grove Road, Bldg. No. 2, Camden, DE 19934, County of Kent, Delaware, USA, and was managed by David Brekhout.

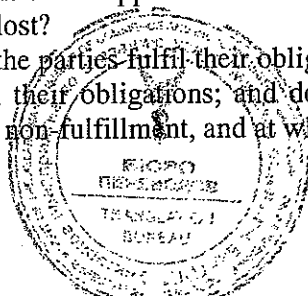
With the aim to eliminate the reasons and conditions which favoured carrying out illegal activities, and to compensate caused damages, as well as with a view to acquire additional proofs and get to the truth, discover all persons involved in criminal actions and call them to criminal account, a necessity has arisen to carry out investigatory actions (obtaining information) under this criminal case in the territory of the United States of America.

Dear colleagues, Taking into account the above stated and on the basis of generally accepted international principles of rendering mutual legal assistance on the issues related to prosecution



for perpetration penal actions, on the basis of mutuality we would ask you to render us assistance in investigation this crime, that is:

1. To let us know to our address id the following companies have ever functioned in the territory of your country: Datacom L.L.C. USA (located at the address: 9013 N. Market Street Wilmington Delaware 19801, USA) and Elsmo Investment L.L.C. USA (located at the address 12260, Willow Grove Road, Bldg. No. 2, Camden, DE 19934, County of Kent, Delaware, USA). Which activity did they carry out and by whom were they managed?
2. To ascertain the location of the head of Datacom L.L.C. USA Mr. Martin A. Lukas and question him as a witness on the following issues:
  - When was his company established, where is it located, and what is its main kind of activities?
  - Does his company exist currently? If not, when and in what connection was it dissolved?
  - Why the settlement account of the company was opened with the Latvian bank "AIZKRAUKLES"? Who was involved in the opening this account and who administrated it?
  - Was he acquainted with Mr. David Brekhout, head of Elsmo Investment L.L.C. USA; Konstantin Kolos, vice president of JV Eurovita Ltd.; Mr. Andjey Tsekhovsky, president of JV Eurovita Ltd.? If so, when and under what circumstances did he make acquainted himself with the mentioned persons?
  - Has he ever been to Poland or Republic of Belarus? If so, when and in what connection?
  - Has he ever signed any contracts with any of the mentioned persons? If so, with whom of the mentioned persons and what kind of contracts?
  - In particular, did he sign Contract No. 001 dated August 4, 1997, with JV Eurovita Ltd. in the person of its vice president Konstantin Kolos, for leasing the chocolate production line, and additional agreements to this Contract unnumbered dated November 10, 1997 and December 8, 1997.
  - Where was this Contract signed?
  - Did his company delivered the mentioned equipment to the address of JV Eurovita Ltd.? If so, by what kind of transport?
  - Where from had he, in his turn, taken the chocolate production line which he granted on lease to JV Eurovita Ltd.?
  - Who signed the Contract on the part of JV Eurovita Ltd.?
  - Who initiated signing this Contract: he himself or Konstantin Kolos; or was the Contract signed by instruction of any third party, in particular, of Andjey Tsekhovsky, President of JV Eurovita Ltd.?
  - Did JV Eurovita Ltd. pay for the equipment delivered at their address? If so, at what amount?
  - Does he keep a copy of the Contract signed?
  - Did he sign Contract of assignment of chose in action No. 35 dated June 4, 1998, with Elsmo Investment L.L.C. USA in the person of its director Mr. David Brekhout? If so, where and in what connection was this Contract signed?
  - Who initiated signing Contract No. 35 dated June 4, 1998? Is it possible that this Contract has been signed by initiative of the third parties, in particular, of Andjey Tsekhovsky, President of JV Eurovita Ltd., or Konstantin Kolos, vice president of the same company?
  - Had it ever happened from the date of Datacom L.L.C.USA formation that company's seal was lost?
  - Did the parties fulfil their obligations under the mentioned Contracts? If not, why they do not fulfil their obligations; and do there exist any claims to the contractor in connection with such non-fulfillment, and at what amount?



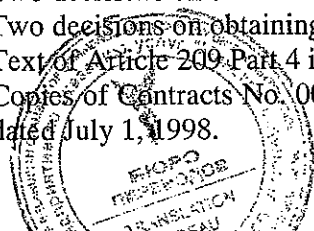
3. To ascertain the location of Mr. David Brekhout, head of Elsmund Investment L.L.C. USA and question him as a witness on the following issues:
  - When was his company established, where is it located, and what is its main kind of activities?
  - Does his company exist currently? If not, when and in what connection was it dissolved?
  - Why the settlement account of the company was opened with the Latvian bank "SAULES BANKA", RIGA? Who was involved in the opening this account and who administrated it?
  - Was he acquainted with Mr. Martin A. Lukas, head of Datacom L.L.C. USA; Konstantin Kolos, vice president of JV Eurovita Ltd.; Mr. Andjey Tsekhovsky, president of JV Eurovita Ltd.? If so, when and under what circumstances did he make acquainted himself with the mentioned persons?
  - Has he ever been to Poland or Republic of Belarus? If so, when and in what connection?
  - Has he ever signed any contracts with any of the mentioned persons? If so, with whom of the mentioned persons and what kind of contracts?
  - Did he sign Contract of assignment of chose in action No. 35 dated June 4, 1998, with Datacom L.L.C. USA in the person of its director Mr. Martin A. Lukas? If so, where and in what connection was this Contract signed?
  - Who initiated signing Contract No. 35 dated June 4, 1998? Is it possible that this Contract has been signed by initiative of the third parties, in particular, of Andjey Tsekhovsky, President of JV Eurovita Ltd., or Konstantin Kolos, vice president of the same company?
  - Where was this Contract signed? Does he keep a copy of the mentioned Contract?
  - Did JV Eurovita Ltd. pay for the equipment? If so, to what settlement amount and in what sum were the funds transferred?
  - In what way the funds transferred from JV Eurovita Ltd. as payment for the equipment were subsequently used?
  - Had it ever happened from the date of Elsmund Investment L.L.C. USA formation that company's seal was lost?
  - Did the parties fulfil their obligations under the mentioned Contracts? If not, why they do not fulfil their obligations; and do there exist any claims to the contractor in connection with such non-fulfillment, and at what amount?

We would like each of the above questions to be answered. Will you please ask the questions in the same order as they are stated in this request for rendering legal assistance. We would ask you to record the answers in the written document signed by the witness and the official who will carry out questioning. Should the witness refuse to sign the document please state the reason thereof.

4. To seizure original contracts mentioned in this rogatory letter from Martin A. Lukas, head of Datacom L.L.C. USA, and David Brekhout, head of Elsmund Investment L.L.C. USA. Should seizure of the original documents be impossible, certified copies of such contracts will be acceptable. Please enclose them with your answer to this rogatory letter.
5. To obtain from Martin A. Lukas, head of Datacom L.L.C. USA, and David Brekhout, head of Elsmund Investment L.L.C. USA the imprints of the companies' seals and authorized signatures of the companies' managers.

Appendices:

- Two decisions on seizure of documents
- Two decisions on obtaining experimental samples
- Text of Article 209 Part 4 in the Criminal Code of the Republic of Belarus
- Copies of Contracts No. 001 dated August 4, 1997; No. 35 dated June 4, 1998; and No. 43 dated July 1, 1998.





We would ask you to seal each document with the official seal of the competence institution of justice and sent all results of your investigation under this rogatory letter to the address of the Ministry of Internal Affairs of the Republic of Belarus. Should any delay occur in execution of this rogatory letter or should it be refused to render legal assistance fully or partially, we will appreciate your immediate notification of the Belarusian party thereof through Interpol channels.

Information contained in this rogatory letter is confidential and is destined exclusively for restricted use as it is a secret of investigation. On our part we guarantee that all data received by us as a consequence of execution of this rogatory letter will not be subject to disclosure of any third parties and will be used only in the interests of investigation of this criminal case.

We would like to take this opportunity so as to assure you of our respect and readiness to render you any mutual legal assistance.

Address and contact telephones:

10, Varvashenya Street, 220005 Minsk, Republic of Belarus

Tel.: 8-10-375-17-284-84-77

Senior Investigator of the Organized Crime  
and Corruption Investigation Office  
of the Preliminary Investigation Department  
under the Department of Internal Affairs  
of the Minsk Regional Executive Committee  
Senior Lieutenant of Militia

(Signed) P.A. Seleznevich

Seal: Ministry of Internal Affairs  
of the Republic of Belarus  
Department of Internal Affairs  
of the Minsk Regional Executive Committee

